

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

M.A.C.M.A. No.1755 OF 2009

JUDGMENT:

Having got dissatisfied with the award of Rs.1,15,000/- as compensation by the order dated 08.07.2008 in O.P. No.722 of 2006 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-I Additional District Judge, Mahabubnagar (for short, 'the Tribunal') as against the claim of Rs.3,00,000/- laid under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') read with the Rules framed thereunder, for the death of one Alakunta Nagaiah, husband of appellant No.1 and father of appellant Nos.2 and 3, in a road accident, the instant appeal is preferred under Section 173 of the Act seeking enhancement of compensation.

2. Appellant Nos.1 to 3 herein, who are the wife and daughters of the said Alakunta Nagaiah, are petitioner Nos.1 to 3, while the sole-respondent herein, who is the erstwhile Andhra Pradesh State Road Transport Corporation, Mahabubnagar, represented by its Regional Manager (for short, 'respondent-Corporation'), is the respondent in the original petition.

3. For the sake of convenience, the parties hereinafter referred to as they were arrayed before the Tribunal in the original petition.

4. So far as the fact-situation occurring in the instant case leading to the death of the said Alakunta Nagaiah (deceased) is concerned, there is no dispute between the parties in the present appeal.

5. Heard Sri K.Venkatesh Guptha, learned counsel for the appellants-petitioners, and Sri B.Mayura Reddy, learned Standing Counsel for the respondent-Corporation.

6. The Tribunal, while recording findings on all the issues in favour of the petitioners in determining compensation, took the age of the deceased above 55 years, earnings at Rs.1,500/- per month or Rs.18,000/- per annum, deducted $\frac{1}{3}^{\text{rd}}$ therefrom towards personal expenses, i.e., Rs.6,000/-, and applying multiplier '8' in view of the entries in Schedule II of Section 163-A of the Act, arrived the loss of dependency at Rs.96,000/- (Rs.12,000/- x 8). Besides the same, the Tribunal also granted Rs.10,000/- towards loss of consortium, Rs.5,000/- towards loss of estate and Rs.4,000/- towards funeral expenses, making a total of Rs.1,15,000/- and granted the same with interest at 7.5% per annum from the date of petition till realization.

7. Learned counsel for the appellants-petitioners would submit that the minimum income of Rs.3,000/- per month is being taken even for a labourer, as held by the Hon'ble Supreme Court in recent judgments, as against Rs.1,500/- per month fixed by the Tribunal. Therefore, the annual earnings of the deceased are to be

taken as Rs.36,000/-, more so, when the deceased was a stone-cutter. The Tribunal has taken the age of the deceased as 55 years. Since the dependents are three in number, 1/3rd deduction is permissible towards personal living expenses of the deceased and when the same is deducted, the contribution would work out to Rs.24,000/-. Since the relevant multiplier factor is '9' and when applied, loss of dependency would work out to Rs.2,16,000/-. This apart, the petitioners are also entitled to a conventional sum of Rs.50,000/- in view of the decision of the Hon'ble Supreme Court in **Ramilaben Chinubhai Parmar Vs. National Insurance Company**¹.

8. Thus, the petitioners are entitled to a total sum of Rs.2,66,000/- (Rupees two lakhs and sixty six thousand) as against Rs.1,15,000/- granted by the Tribunal towards compensation and the same is accordingly granted. So far as the rate of interest is concerned, the Tribunal granted the same at 7.5% per annum from the date of petition till realization and the same is maintained on the entire amount of compensation in view of the decision of the Hon'ble Supreme Court in **Rajesh and others v. Rajbir Singh and others**².

9. Accordingly, the instant appeal is allowed modifying the order passed by the Tribunal, by enhancing the compensation, as indicated above, and confirming the same in all other respects. There shall be no order as to costs.

¹ LAWS (SC) -2014-4-67

² 2013ACJ1403 = 2013(4)ALT35

10. As a sequel thereto, miscellaneous applications, if any pending in the instant appeal, stand closed.

A. SHANKAR NARAYANA, J

15th September, 2016

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